

14.04.171 Airport environs.

(1) Purpose. The purpose of these provisions is to promote land uses compatible with the Skagit Regional Airport within the airport's designated environs and to protect public health, safety and general welfare within aforementioned designated environs.

(2) Determination of Airport Environs For purposes of this section. the airport environs is that geographic area affected by the airport and defined on the basis of factors including, but not limited to, aircraft noise, aircraft flight patterns, airport safety zones, local circulation patterns and area development plans. The boundaries of the Airport Environs as adopted by the Port of Skagit County and Skagit County shall be reviewed at least every five years and maps portraying the airport environs shall be on file and open for public inspection in the offices of the Port of Skagit County and the Skagit County Planning Department.

(3) Application of Airport Environs Review Ordinance.

(a) New Buildings and Structures. All new buildings or structures intended for human use or habitation which lie wholly or in part within the airport environs shall be subject to the provisions of this section. Such uses include, but are not limited to:

- (i) Residential structures such single- and multi-family dwellings;
- (ii) Commercial structures such as retail stores offices, hotels and recreational centers;
- (iii) Manufacturing and warehousing structures such as industrial plants and storage and distribution facilities,
- (iv) Civic structures such as hospitals, churches and schools.

(b) Outdoor Activities. All activities, which are to occur in unenclosed space involving human use, or assembly, which lie wholly or in part within the airport environs, shall be subject to the provisions of this section. Such activities include, but are not limited to:

- (i) Parks, playgrounds and playing fields;
- (ii) Open storage areas, roofed or unroofed, separate or adjoining another structure
- (iii) Drive-in facilities designated or operated to enable the provision of services or purchase or consumption of goods while remaining in a motor vehicle.

(4) Exemptions. The provisions of this section shall not be deemed applicable to the following when permitted in the underlying zone:

(a) Existing Uses. Uses existing on the effective date of the ordinance codified in this section shall not be required to change operations to comply with these regulations. However, any use shall not be so changed as to result in a greater degree of nonconformity with respect to these regulations

(b) Temporary Uses. Temporary uses including but not limited to: circus, carnival or other outdoor entertainment events and religious assembly so long as the period of operation does not exceed five days.

(c) Temporary Structures. Temporary buildings and structures auxiliary to residential development and major construction and temporary uses in new subdivisions and other residential developments which support the sale of dwellings and lots within the same subdivision or residential development so long as such uses and associated structures are constructed or erected as incidental to a development, do not involve any significant investment are solely used for the designated purpose and remain for a maximum of one year.

(d) Agricultural Structures, Bona fide agricultural buildings, structures, improvements and associated developments, so long as not more than one single-family dwelling occurs within that portion of the parcel located within the airport environs.

(e) Other Uses. As determined by the Skagit County Planning Department to be minor or incidental and within the intent or objective of these regulations.

(5) Interior Noise Levels Established, Interior Day-Night Average Sound Level (Ldn) with windows closed, attributable to exterior sources, shall not exceed the levels described in this section. For uses not specifically identified, the Skagit County Planning Department shall make a determination of the applicable standards using this section as the basis for that decision.

(a) Residential Uses

Single or Multiple Family-45 Ldn

Mobile Homes-50 Ldn

(b) Commercial Uses

Concrete Halls-30 Ldn

Hotels and Motels (sleeping areas only)--45 Ldn Theaters-45 Ldn

Offices-55 Ldn

Retail/Restaurant-60 Ldn Bowling Alleys-70 Ldn

(c) Industrial Uses

Offices - Ldn

Other uses as guided by regulation of the Suite of Washington and/or the U.S.

Occupational Safety and Health Administration

(d) Civic Uses

Schools. Churches, Libraries--45 Ldn

Hospitals, Convalescent Homes (sleeping area only)-45 Ldn

(6) Avigation Easement Required. No permit of any type shall be issued for any development or activity subject to this section until the Port of Skagit County is provided an avigation easement permitting the right of flight in the airspace above the subject property. Such easement shall be supplied in a - form prescribed by the Port of Skagit County and shall be recorded on the title of the subject property.

(7) Notice to Purchasers Required. No permit of any type shall be issued for any development or activity subject "to this section until the Skagit County Planning Department approves the form, content and method of notice by which purchasers of prop" within the Airport Environs will be informed that the area is subject to aircraft overflight. Said notice shall include but not be limited to a map showing the Airport Environs, noise contours forecast for the year 2000 and current and anticipated aircraft flight patterns.

(8) Development Review Required. No permit of any type shall be issued for any development or activity within the Airport Environs Zone until such development or activity has been reviewed and approved in accordance with the provisions of the minor development review in subsection (9) or the development plan review described in subsection (10). Minor development review shall be required in the case of construction or alteration of a single-family dwelling within the Airport Environs when being constructed or altered by the owner(s) and

which involves no more than one dwelling owned by the applicant within the parcel, tract or subdivision. The specific intent of the minor development review is to allow for expeditious review of plans for construction and remodeling of individual single-family homes by their owners. All other uses subject to the provisions of this section shall prepare and submit a development plan in accordance with subsection (10).

(9) Content of Minor Development Review Applications. An application for a minor development review shall be submitted by the property owner to the Skagit County Planning Department and shall include:

- (a) Descriptive Information on the development proposed and the sound attenuation techniques to be incorporated in construction;
- (b) Evidence of consultation with the Skagit County Permit Center indicating that information on construction techniques and practices commonly used to reduce interior noise levels were provided by the applicant,
- (c) A statement of assurance signed by the property owner indicating that insulation required to reduce interior noise levels to 45 Ldn in all habitable rooms will be incorporated in the construction or remodeling and
- (d) Such other information as may be required by the Skagit County Planning Department to determine the adequacy of the sound attenuation measures proposed.

(10) Content of Development Plan. The required development plan shall include technical substantiation, maps, plans, drawings and such other information as is necessary to show:

- (a) Ldn Contours. Average Day-Night Sound Level (Ldn) contours, as provided in the most current airport master plan, shall be superimposed on a topographic map of the development site to show both Present and future aircraft generated sound levels projected for the Property. All maps shall be drawn at a scale designated by the Skagit County Planning Department.
- (b) Location of Structures The placement of all existing and proposed buildings and structures shall be located on the site contour map.

- (c) Specifications of Uses Identification of the uses to occur within each structure or activity area shall be designated on the site/contour map.
 - (d) Noise Mitigation Measures. Noise attenuation measures to be applied in the development shall be identified, together with the analysis of the noise insulation effectiveness of the proposed construction, showing that the prescribed interior noise level requirements are met. Said analysis shall be prepared by or under the supervision of a person experienced in the field of acoustical engineering who shall be identified. If interior allowable noise levels are met by requiring that windows be unopenable or closed, the design for the structures must also specify the means that will be employed to provide- ventilation and cooling if necessary, to provide a habitable interior environment.
 - (e) Narrative Description. A narrative shall be provided describing the location of the site, its total acreage existing character and use; the concept of the proposed development or use, including, as appropriate, proposed residential density, number of employees and/or estimated number of people who will be engaged in transactions at the site over a twenty-four (24) hour period such as but not limited to, retail store customers, and the relation of the proposed plan to the Comprehensive Plan.
- (11) Development Plan Review Criteria. The development plan described in Section (10) shall be reviewed and evaluated by the Skagit County Planning Department for conformance with the following criteria:
- (a) Permitted Uses. All elements of We proposed development are consistent with the land use compatibility standards (or the Skagit Regional Airport environs and with the requirements of this section.
 - (b) Siting. Buildings and structures am located, when reasonable and feasible, at the greatest distance from the noise source. taking maximum advantage of existing topographical features to minimize noise impact.
 - (c) Design Considerations Regarding Now. The amount of passive outdoor recreational space where individuals would be subject to high levels of noise is minimized; construction materials utilized are such that sound attenuation yields an interior average sound level as described in subsection five (5)

(12) Decision and Notice.

(a) Minor Development Review. Minor development review applications shall be reviewed by the Skagit County Planning Department who will either find that the proposed use is consistent with the intent of this section and approve the application, or shall return the development review application specifying those changes and modifications required for approval. Notice of the decision of the Director shall be filed in the Planning Department and a copy of said notice shall be mailed to the applicant within thirty (30) days of receipt of a complete application for minor review.

(b) Development Plan Review. Development Plans shall be reviewed by the Skagit County Planning Department, who shall submit their recommendation to the Planning Commission for action. The Planning Commission shall either find that the proposed use is consistent with the intent of this section and approve the Development Plan, or shall return the Development Plan specifying those changes and modifications required for approval. Notice of the decision of the Planning Commission shall be filed in the Planning Department and a copy of said notice shall be mailed to the applicant within sixty (60) days of receipt of a complete application for development plan review.

(13) Certificate of Compliance Required. A certificate of compliance shall be required for any use or activity subject to a development plan review to confirm that construction is in conformance with the approved development plan. Subsequent to the completion of the development, but prior to occupancy of any structure, a certificate of compliance shall be issued by the Skagit County Permit Center when field inspection indicates that construction is in accordance with that, approved design.

(14) Field Testing of Interior Sound Levels. Field testing may be required by the Skagit County Permit Center as a condition for a Certificate of Compliance, pursuant to the provisions of subsection (13), or by an individual with vested interest in the structure(s). Where a complaint is to noncompliance with this section requires a field test to resolve the complaint, the complainant shall post a bond or adequate funds in escrow for the cost of such testing.

Such cost shall be chargeable to the complainant when such field tests show that compliance with these regulations is in fact present if such tests shown noncompliance, then such testing costs shall be borne by the owner or builder. Actions shall then be taken by the owner or builder to comply with the sound attenuation provisions of this section. Interior noise measurements shall be taken under conditions of typical maximum exterior noise levels.

(15) Hearing Examiner. The Hearing Examiner is authorized to hear and exercise the following powers:

(a) To hear and decide appeals from any order, requirement, decision or determination made by the Planning Department or Permit Center in the enforcement of this section;

(b) To hear and decide special exceptions to the term of this section;

(c) To hear and decide specific variances. This shall be accomplished in accordance with the provisions of Section 1444.240.

(16) Appeals.

(a) Any person aggrieved, or any taxpayer affected, by any decision of the Planning Department or Permit Center made in the administration of this section may appeal to the Hearing Examiner.

(b) All appeals hereunder must be taken within a reasonable time as provided by the rules of the Hearing Examiner, by filing with the Permit Center a notice of appeals specifying the grounds thereof. The Permit Center shall forthwith transmit to the Hearing Examiner all the papers constituting the record upon which the action appealed from was taken.

(c) An appeal shall stay all proceedings in fit furtherance of the action appealed from unless the Permit Center certifies to the Hearing Examiner, after notice of appeals has been filed with it. that by reason of the facts stated in the certificate, a stay would in the opinion of the Permit Center cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Hearing Examiner on notice to the Permit Center and on due cause shown.

(d) The Hearing Examiner shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

(e) The Hearing Examiner may, in conformity with the provisions of this section, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement decision or determination as may be appropriate under the circumstances.

(f) Any party to a proceeding who has been aggrieved by the Hearing Examiner's decision may submit an appeal in writing to the Board of County Commissioners in accordance with Section 14.04.24(16).

(17) Judicial Review. Any person aggrieved or any taxpayer affected by a decision of the Board of County Commissioners, may appeal to the superior Court as provided in R.C.W. Chapter 7.16 and Skagit County Code Section 14.04210(6)(c).

(18) Violation-Penalty. Violation of the provisions of this section or any amendments thereto, or failure to comply with any of its requirements, shall be handled in accordance with Section 14.04.290.

(19) Conflicting Regulations. Where there exists a conflict between any of the regulations or limitations prescribed in this section and any other regulations applicable to the same area whether the conflict is with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

(20) Severability. If any of the provisions of this section or the application thereof to any person or circumstances are held invalid such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application and to this end the provisions of this section are declared to be severable. (Ord. 12654 (Dart), 1990)

14.04.172 Airport height

An ordinance regulating and restricting the height of structures and objects of natural growth and otherwise regulating the use of property in the vicinity of the Skagit Regional Airport/Bay View by creating the appropriate zones and establishing the boundaries thereof, providing for changes

in the restrictions and boundaries of such zones, defining certain terms used herein; referring to the Skagit Regional Airport/Bay View which is incorporated in and made a part of this ordinance; providing for enforcement; and imposing penalties,

(1) Declaration of Purpose. This section is adopted pursuant to the authority conferred by R.C.W. 14.12.030. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Skagit Regional Airport/Bay View and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Skagit Regional Airport/Bay View and that an obstruction may reduce the size of areas available for the landing, takeoff and maneuvering of aircraft thus tending to destroy or impair the utility of the Skagit Regional Airport/ Bay View and the public investment therein. Accordingly, it is declared:

- (a) That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Skagit Regional Airport/ Bay View;
- (b) That it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented, and
- (c) That the prevention of these obstructions should be accomplished, to the extent legally possible by the exercise of the police power without compensation. It is further declared that the prevention of the creation or establishment of hazard to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interest in land.

(2) Definitions. As used in this section, unless the context otherwise requires:

- (a) Airport: Skagit Regional Airport/Bay View.
- (b) Airport Elevation: The highest point of an airport's usable land area measured in feet from sea level.
- (c) Approach Surface: A surface longitudinally centered on the extended runway centerline extending outward and upward from the end of the primary surface, and at the same slope as

the approach zone height limitation slope set forth in subsection (4). In plan the perimeter of the approach surface coincides with the perimeter of the approach zone,

(d) Approach, Transitional, Horizontal and Conical Zones: These zones are set forth in subsection (3).

(e) Conical Surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

(f) Hazard to Air Navigation An obstruction determined to have a substantial adverse effect on the safe and efficient utilizations of the navigable airspace.

(g) Hearing Examiner: Official designated to interpret, review and implement regulations as provided in this section.

(h) Height: For the purpose of determining the height limits in all zones set forth in this section, and shown on the official map, the datum shall be mean sea level elevation unless otherwise specified.

(i) Heliport Primary Surface: The area of the primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of established heliport elevation.

j) Horizontal Surface: A horizontal plane 150 feet above the established airport elevation. Its perimeter of which in plan coincides with the perimeter of the horizontal zone.

(k) Larger Than Utility Runway: A runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.

l) Nonconforming Use: Any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of this section or an amendment thereto.

(m) Nonprecision Instrument Runway. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment for which a straight in nonprecision instrument approach procedure has been approved or planned.

(n) Obstruction: Any structure, growth or other object, including a mobile object, which exceeds a limiting height set forth in subsection (4).

(o) Permit Center: The Skagit County Permit Center.

(p) Person: An individual, firm, partnership, corporation, company, association, joint stock association, governmental entity, includes a trustee, a receiver, an assignee, or a similar representative of any of them.

(q) Precision Instrument Runway: A runway having existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document

(r) Primary Surface: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of the runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway, The width of the primary surface is set forth in subsection (3). The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway along its length,

(s) Runway: A defined area on an airport prepared for landing and takeoff of aircraft along its length.

(t) Structure: An object, including a mobile object, constructed or installed, tied by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formations and overhead transmission lines.

(u) Transition Surfaces: These surfaces extend outward at 90-degree angles to the runway centerlines and the runway centerlines extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

(v) Tree: Any object of natural growth.

(w) Utility Runway: A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

(x) Visual Runway: A runway intended solely for the option of aircraft using visual approach procedures.

(3) Airport Zones: In order to carry out the provisions of this section, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to the Skagit Regional Airport/Bay View. Such zones are shown on the Skagit Regional Airport/Bay View Approach and Clear Zone Plan consisting of one sheet prepared by Wadell Engineering Corporation and dated July 1981, which is attached to Resolution 9062 and made a part of this section. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

(a) Utility Runway Visual Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(b) Utility Runway Nonprecision Instrument Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(c) Runway Larger Than Utility Visual Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(d) Runway Larger Than Utility With a Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone: The inner edge of this approach zone coincides with

the width of the primary surface and expands uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(e) Runway Larger Than Utility With a Visibility Minimum As Low as 3/4 Mile

Nonprecision Instrument Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the continuation of the centerline of the runway.

(f) Precision Instrument Runway Approach Zone: The edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(g) Heliport Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is 150 feet wide. The approach zone expands outward uniformly to a width of 500 feet at a horizontal distance of 4,000 feet from a primary surface.

(h) Transitional Zones: The transitional zones are the areas beneath the transitional surface.

(i) Heliport Transitional Zones: These zones extend outward from the sides of the primary surface and the heliport approach zones a horizontal distance of 250 feet from the primary surface centerline and the heliport approach zone centerline.

(j) Horizontal Zone: The horizontal zone is established by swinging arcs of 5,000 feet radial for all runways designated utility or visual and 10,000 feet for all others from the centers of each of the primary surface of each runway and connection and adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

(k) Conical Zone: The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

(4) Airport Zone Height Limitations. Except as otherwise provided in this section, no structure shall be erected, altered, or maintained and no tree shall be allowed to grow in any zone

created by this section to a height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

(a) Utility Runway Visual Approach Zone: Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

(b) Utility Runway Nonprecision Instrument Approach Zone: Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

(c) Runway Larger Than Utility Visual Approach Zone: Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

(d) Runway Larger Than Utility With A Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument Approach Zone: Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

(e) Runway Larger Than Utility With A Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone: Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 square feet along the extended runway centerline.

(f) Precision Instrument Runway Approach Zone: Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

(g) Heliport Approach Zone: Slopes eight (8) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a distance of 4,000 feet along the heliport approach zone centerline.

(h) Transitional Zones: Slopes seven (7) feet outward for each foot upward beginning at the side of and at the same elevation as the primary surface and the approach surface and extending to a height of 150 feet above the airport elevation which is 139 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface and extending to where they intersect the conical surface. Where the preexisting instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.

(i) Heliport Transitional Zones: Slopes two (2) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the heliport approach zones and extending a distance of 250 feet measured horizontally from and at 90-degree angles to the primary surface centerline and heliport approach zones centerline.

(j) Horizontal Zone: Established at 150 feet above the airport elevation or at a height of 289 feet above mean sea level.

(k) Conical Zone: Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

(l) Excepted Height Limitation: Nothing in this section shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.

(5) Use Restrictions. Notwithstanding any other provisions of this section, no use may be made of land or water within any zone established by this section in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird

strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

(6) Nonconforming Uses.

(a) Regulations Not Retroactive. The regulations prescribed by this section shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the, effective, date of the resolution codified in this section, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the resolution codified in this section, and which is diligently prosecuted.

(b) Marking and Lighting. Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Port of Skagit County to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Port of Skagit County.

(7) Permits.

(a) Future Uses. Except as specifically provided in (i), (ii) and (iii) hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this section shall be granted unless a variance has been approved in accordance with subsection (7)(d).

(i) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height

above the. Ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

(ii) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

(iii) In the areas lying within the limits of the transitional zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transitional zones. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction or alteration of any structure or growth of any tree in excess of any of the height limits established by this section except as set forth in subsection (7)(d).

(b) Existing Uses. No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of the resolution codified in this section or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(c) Nonconforming Uses Abandoned or Destroyed. Whenever the Permit Center determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or trees to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(d) Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this section may apply to the Hearing Examiner for a variance from such regulations. The

application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. No application for variance to the requirements of this section may be considered by the Hearing Examiner unless a copy of the application has been furnished to the Airport Manager for advice as to the aeronautical effects of the variance. The Airport Manager will have, fifteen (15) days to respond prior to the Hearing Examiner's action on the application. Such variances shall be allowed where it is duly found that literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice and will be in accordance with the spirit of this section.

(e) Obstruction Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this section and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Hearing Examiner, this condition may be modified to require the owner to permit the Port of Skagit County at its own expense, to install, operate and maintain the necessary markings and lights.

(8) Hearing Examiner. The Hearing Examiner is authorized to have and exercise the following powers:

- (a) To hear and decide appeals from any order, requirement, decision or determination made by the Permit Center in the enforcement of this section;
- (b) To hear and decide special exceptions to the terms of this section; and
- (c) To hear and decide specific variances. This shall be accomplished in accordance with the provisions of Chapter 14.04.240 of the Skagit County Code.

(9) Appeals.

- (a) Any person aggrieved, or any taxpayer affected by any decision of the Permit Center made in the administration of this section may appeal to the Hearing Examiner.

(b) All appeals hereunder must be taken within a reasonable time as provided by the rules of the Hearing Examiner, by filing with the Permit Center a notice of appeals specifying the grounds thereof. The Permit Center shall forthwith transmit to the Hearing Examiner all the papers constituting the record upon which the action appealed from was taken.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Permit Center certifies to the Hearing Examiner, after notice of appeals has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the Permit Center cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Hearing Examiner on notice to the Permit Center and on due cause shown.

(d) The Hearing Examiner shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

(e) The Hearing Examiner may, in conformity with the provisions of this section, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as may be appropriate under the circumstances.

(f) Any party to a proceeding who has been aggrieved by the Hearing Examiner's decision, may submit an appeal in writing to the Board of County Commissioners in accordance with Section 14.04.240(16) of the Skagit County Code.

(10) Judicial Review. Any person aggrieved, or any taxpayer affected by a decision of the Board of County Commissioners, may appeal to the Superior Court as provided in R.C.W. 7.16 and Skagit County Code Section 14.04.210(6)(e).

(11) Penalties. Violation of the provisions of this section or any amendments thereto, or failure to comply with any of its requirements shall be handled in accordance with Section 14.04.290 of the Skagit County Code.

(12) Conflicting Regulations. Where there exists a conflict between any of the regulations or limitations prescribed in this section and any other regulations applicable to the same area,

whether the conflict is with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

(13) Severability. If any of the provisions of this section or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provisions or application and to this end, the provisions of this section are declared to be severable.

(14) Effective Date. Whereas, the immediate operation of the provisions of this section is necessary for the preservation of the public health, public safety and general welfare, the resolution codified in this section shall be in full force and effect from and after its passage by the County of Skagit and publication and posting as required by law. (Ord. 12654 (part), 1990)

14.04.180 Performance standards

(1) Emissions. Levels of emissions of smoke, dust and other particulate matter, toxic and noxious gases are not to exceed current standards set by the local air pollution authority (Northwest Air Pollution Control Authority) and all Washington State and Federal standards as now exist, or hereafter amended

(2) Vibration. Every use shall be so operated that the ground vibration inherently and/or recurrently generated from use and/or equipment other than vehicles is not perceptible without instruments at any point on or beyond any zone district boundary in which the use is located.

(3) Heat, Glare and Steam. Any activity producing steam, heat or glare shall be carried on in such a manner that the steam, heat or glare shall not create a nuisance beyond the boundary lines of the district within which the use is located. Building materials with high light reflective qualities shall not be used in construction of buildings where reflected sunlight would throw intense glare on adjacent areas. Artificial lighting shall be hooded or shaded so that direct light from high intensity lamps will not result in glare upon surrounding areas or cast light upon any residential use or street area.

(4) Noise. On-site sound levels are not to exceed levels established by noise control regulations of the Department of Labor and Industries. Maximum permissible environmental noise levels to be emitted to adjacent properties or imposing the planned development requirements of this ordinance) when such requirements are employed to better accomplish the purposes of this ordinance or the objectives of the Comprehensive Plan, nor shall the Board of County Commissioners be restricted from imposing said recommendations as conditions of ordinance amendment (rezone) and, when appropriate, require the signing of a contract that sets forth such conditions and bonds.

(5) The burden of proof shall be upon the applicant in bringing forth evidence to support the application and providing information to the Planning Commission as provided in this section.

(6) Board Action.

(a) If after considering the matter at public meeting as provided above, the Board deems a change in the recommendation of the Planning Commission to be necessary, the change shall not be incorporated in the recommended control until the Board shall conduct its own public hearing.

(b) Notice of the Board's public hearings shall be given as provided in RCW 36.70.590 as now exists or is hereinafter amended.

(c) The Board shall adopt its own findings of fact and statement setting forth the factors considered at the hearing and its own analysis of findings considered by it to be controlling.

(d) Any property owner or citizen of Skagit County may by written or oral statement presented to the Board prior to the public meeting as provided for in subsection 5 (d), request that the Board hold a public hearing as provided in this section.

(e) The action of the Board of Commissioners on any decision approving or disapproving a recommendation from the Planning Commission or appeal from the Hearing Examiner shall be final and conclusive unless within thirty (30) days from the date of the action the applicant or a party having standing makes application to a court of competent jurisdiction for a Writ of Certiorari.

The initial cost of transcription and certification of all records ordered certified by a court of review shall be borne by the party taking the review; provided, however, that such costs shall be awarded to the prevailing party. (Ord. 12654 (part), 1990)

14.04.223 Variances

Variances may be authorized in specific cases from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship.

It shall be the duty of the Hearing Examiner to hear and decide on all variance requests except pertaining to residential siting criteria within the Agriculture zone.

It shall be the duty of the Planning Director to review administratively and decide variance requests solely pertaining to residential siting criteria in the Agriculture zone.

Except for those variances processed through the Administrative Variance Process it shall be the duty of the Hearing Examiner to hear and decide on all other variance requests, pursuant to Section 14.04.240, provided, additionally that for variance requests in the Agriculture and Agriculture Reserve zones the Hearing Examiner shall make a recommendation to the Board of County Commissioners who shall at a public meeting decide to accept the recommendation of the Hearing Examiner, or refer the item back to the Hearing Examiner for further consideration, or hold a public hearing for any variance request in the Agriculture and Agricultural Reserve zoned lands.

(1) Application Procedures. A variance from the terms of this chapter shall not be considered unless and until a written application for a variance is submitted to the county containing:

- (a) Name, address and phone number of applicant;
- (b) Name and notarized signature, address and phone number of the legal owner of subject property;
- (c) Legal description of property;
- (d) Zoning District of the property;

- (e) Description of variance being requested;
 - (f) A narrative statement demonstrating that the requested variance conforms to the following standards:
 - (i) That special conditions and circumstances exist which are peculiar to the land or structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 - (ii) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.
 - (iii) That the special conditions and circumstances do not result from the actions of the applicant,
 - (iv) The granting of the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.
 - (g) If the application is for a variance to Agricultural zone residential siting criteria, the applicant must show that the requested variance conforms to the siting criteria of Section 14.04.110(5)(d)(i-iv).
- (2) Public Hearing and Notification.
- (a) The Hearing Examiner shall, and the Board of County Commissioners may, hold a public hearing on all variance requests. Notification of such hearings shall follow the same procedure as outlined in Section 14.04.150 (3)(d).
 - (b) The Planning Director shall adhere to the following public notice procedure for administrative variance requests in the Agricultural District to the siting criteria as outlined in Section 14.04.110(5)(d)(i-iv).
 - (i) Notice of application shall be published in the official County newspaper and addressed through the United States mail to all property owners of record within a radius of three hundred (300) feet of the exterior boundaries of the subject property including the owner of the subject property for which the variance is sought. Said notices shall

include a description of the proposed variance, an explanation of the administrative variance process, and notice of date for decision.

(ii) The Director of the Department of Planning and Community Development or his/her designee shall review the proposed variance in accordance with the criteria outlined above. When a decision is rendered, the Director shall make written findings supporting such decision. Written notice of said decision shall be published in the official County newspaper and addressed through the United States mail to all property owners of record within a radius of three hundred (300) feet of the exterior boundaries of the subject property including the owner of the subject Property for which the variance is sought. The written notice shall include a description of the proposed variance, an explanation of the process for appeals of the administrative decision and a final date for return of appeals. Said date shall be a minimum of fourteen (14) days from the date of mailing.

(iii) The applicant or one or more property owners within 300 feet of the subject property aggrieved by the administrative decision may appeal to the Board of County Commissioners which shall hold a public hearing. Such appeal shall be filed with the Board of County Commissioners within 14 days of the mailing of the decision by the Director of the Department of Planning and Community Development. Notice of the public hearing shall be published in the official County newspaper at least 10 days before the hearing and shall be mailed to all property owners of record within 300 feet of the exterior boundaries of subject property including the owner of the subject property.

(3) Conditions of Variance.

- (a) The Hearing Examiner and/or the Board of County Commissioners shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.
- (b) The Hearing Examiner and/or the Board of County Commissioners shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent

of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to public welfare.

(c) Under no circumstances shall the Hearing Examiner make a recommendation to, or the Hearing Examiner of the Board of County Commissioners, grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in the district.

(d) The Planning Director shall make a finding as required in Section 14.04.110(5) that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

(4) General Conditions and Safeguards. In granting any variance, the Hearing Examiner or the Board of County Commissioners may prescribe such conditions and safeguards as are necessary to secure adequate protection for the locality in which the use is to be permitted. (Ord. 13086 (part), 1991; Ord. 12654 (part), 1990)